DISTRIBUTED
SEP 15 1992
RESPONSE REQUESTED

RECEIVED
SEP - 8 1992
OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. 91-1493

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1992

STATE OF GEORGIA,

Petitioner,

v.

WILLIE JAMES CARR,

Respondent.

Petition For Writ Of Certiorari To The Supreme Court Of Georgia

---

RESPONDENT'S CONCURRENCE THAT CERTIORARI SHOULD BE GRANTED

Bruce Maloy
Attorney for Willie James Carr

MALOY & JENKINS
600 Grant Building
44 Broad Street, NW
Atlanta, Georgia 30303
(404) 522-9400

4 pp

MEMORANDUM FOR RESPONDENT

Respondent adopts, for purposes of this memorandum, the material in the Government's petition under the headings of, "Opinions Below," "Jurisdiction," "Question Presented," "Constitutional Provision," and "Statement of the Case."

REASON FOR GRANTING THE WRIT

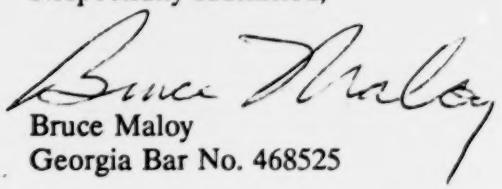
THIS COURT SHOULD GRANT CERTIORARI SO THAT THIS CASE WILL BE CONTROLLED BY THIS COURT'S RECENT DECISION IN GEORGIA v. McCOLLUM.

This Court recently decided the case which will control this issue. Georgia v. McCollum, ___U.S.___, 51 CrL 2167, June 18, 1992.

The State of Georgia has already asserted to this Court that a criminal defendant's peremptorily excluding jurors solely on the basis of race violates the Fourteenth Amendment equal protection rights of the excluded jurors. *See* Edmonson v. Leesville Concrete Company, Inc., 500 U.S. ___, 111 S.Ct. 2077, 114 L.Ed.2d 660 (1991); Powers v. Ohio, 499 U.S. ___, 111 S.Ct. 1364, 113 L.Ed.2d 411 (1992); Batson v. Kentucky, 476 U.S. 79 (1986).

Because the issue in this case is identical to that in Georgia v. McCollum, Georgia prays that this Court hold this petition for writ of certiorari. Since this Court has ruled that criminal defendants are governed by Batson, this Court should vacate the Georgia Supreme Court's decision in Respondent's case and remand for reconsideration in light of this Court's decision in Georgia v. McCollum.

Respectfully submitted,



Bruce Maloy
Georgia Bar No. 468525

MALOY & JENKINS
600 Grant Building
44 Broad Street, NW
Atlanta, Georgia 30303
(404) 522-9400

No. 91-1493

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1992

STATE OF GEORGIA,

Petitioner,

v.

WILLIE JAMES CARR,

Respondent.

CERTIFICATE OF SERVICE

I, Bruce Maloy, a member of the Bar of this Court, hereby certify that on the first day of September, 1992, one copy of the Respondent's Concurrence that Certiorari Should be Granted in the above-entitled case was mailed first class postage prepaid to Mr. Harrison W. Kohler, Senior Assistant Attorney General, 132 State Judicial Building, Atlanta, Georgia 30334, counsel for all the respondents herein. I further certify that all parties required to be served have been served.

Bruce Maloy
Maloy & Jenkins
600 Grant Building
44 Broad Street, NW
Atlanta, Georgia 30303
(404) 522-9400

Counsel for Petitioner

MEMORANDUM FOR RESPONDENT

Respondent adopts, for purposes of this memorandum, the material in the Government's petition under the headings of, "Opinions Below," "Jurisdiction," "Question Presented," "Constitutional Provision," and "Statement of the Case."

REASON FOR GRANTING THE WRIT

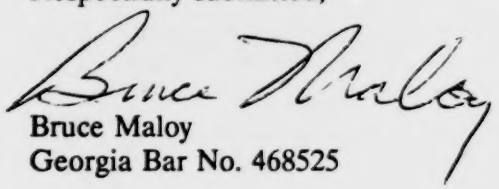
THIS COURT SHOULD GRANT CERTIORARI SO THAT THIS CASE WILL BE CONTROLLED BY THIS COURT'S RECENT DECISION IN GEORGIA v. McCOLLUM.

This Court recently decided the case which will control this issue. Georgia v. McCollum, ___U.S.___, 51 CrL 2167, June 18, 1992.

The State of Georgia has already asserted to this Court that a criminal defendant's peremptorily excluding jurors solely on the basis of race violates the Fourteenth Amendment equal protection rights of the excluded jurors. *See* Edmonson v. Leesville Concrete Company, Inc., 500 U.S. ___, 111 S.Ct. 2077, 114 L.Ed.2d 660 (1991); Powers v. Ohio, 499 U.S. ___, 111 S.Ct. 1364, 113 L.Ed.2d 411 (1992); Batson v. Kentucky, 476 U.S. 79 (1986).

Because the issue in this case is identical to that in Georgia v. McCollum, Georgia prays that this Court hold this petition for writ of certiorari. Since this Court has ruled that criminal defendants are governed by Batson, this Court should vacate the Georgia Supreme Court's decision in Respondent's case and remand for reconsideration in light of this Court's decision in Georgia v. McCollum.

Respectfully submitted,



Bruce Maloy
Georgia Bar No. 468525

MALOY & JENKINS
600 Grant Building
44 Broad Street, NW
Atlanta, Georgia 30303
(404) 522-9400